

Clarence was later arrested by federal law enforcement officers and charged with conspiring to process 20 kilograms of powder cocaine and distribute it as crack cocaine. Even though this was his first offense, Clarence was sentenced to life in prison without the possibility of parole. Shocking as this sounds, the judge was powerless to adjust the punishment to fit the crime because he was required by law to impose the sentence called for by the then-mandatory federal sentencing guidelines.

It would be comforting to think that the case of Clarence Aaron is an aberration, a rare miscarriage of justice in a system that otherwise works well for all Americans. It would be comforting but it would also be wrong.

The sad fact is that for thousands of inmates in the federal penal system, especially African Americans and Hispanics, the case of Clarence Aaron is not the exception but the rule. As recently as 2010, more than half of all inmates in the federal system (52%) were incarcerated for drug offenses, a rate more than three times as great (17%) as found in the state penal system.

And the racial and ethnic composition of federal inmates incarcerated for drug offenses is equally troubling story because while whites and African Americans use drugs at similar rates, African Americans are much more likely to be arrested and sentenced for drug offenses. Indeed, African Americans and Hispanics comprise more than 6 in 10 federal inmates incarcerated for drug offenses.

Moreover, according to the U.S. Sentencing Commission African American offenders receive sentences that are 10 percent longer than white offenders for the same crimes and, according to a report by the Sentencing Project, African Americans are 21 percent more likely to receive mandatory-minimum sentences than white defendants.

Many persons concerned about the fair administration of justice were alerted to and alarmed by the danger posed by the imposition of mandatory-minimum sentences for non-violent drug offenses and worked to restore balance and justice to sentencing policy.

In 2005, I introduced the "No More Tulias Act of 2005" (H.R. 2620) in response to the infamous drug task force scandal in Tulia, Texas that occurred six years earlier, during which 15 percent of the town's African American population was arrested, prosecuted and sentenced to decades in prison based on the uncorroborated testimony of a federally funded undercover officer with a record of racial impropriety.

This legislation, which was endorsed by more than 50 of the leading civil rights, religious, and criminal justice reform organization was designed to help put an end to these abuses by enhancing the evidentiary standard required to convict a person for a drug offense, improving the criteria under which states hire drug task force officers, and denying federal money to states that do not have laws preventing convictions for drug offenses based solely on uncorroborated testimony.

Later, in 2007, I introduced the "Drug Sentencing Reform and Cocaine Kingpin Trafficking Act of 2007" (H.R. 4545), bipartisan legislation eliminating the unjust and discriminatory 100 to 1 disparity between crack and powder cocaine sentences in federal law. Companion legislation in the Senate was introduced by then Senator JOSEPH BIDEN of Delaware (S. 1711).

This legislation attracted widespread support because scientific research had by this time clearly refuted the myth upon which the 100 to 1 ratio was based that use of crack cocaine was far more addictive and dangerous than powder cocaine. Instead, the pharmacological effects of crack cocaine were repeatedly shown by scientific and medical experts to be no more harmful than powder cocaine and that the effect on users is the same. Since there was no pharmacological difference between the two drugs, the "Drug Sentencing Reform and Cocaine Kingpin Trafficking Act" removed the distinction in federal law between them for sentencing purposes. Similar bills to remedy the inherent unfairness in federal drug sentencing were introduced by Senators Edward M. Kennedy and ORRIN HATCH, and JEFF SESSIONS.

In 2010, after years of working to reform our drug sentencing laws, our efforts finally bore fruit when the Congress passed and President Obama signed into law the "Fair Sentencing Act of 2010" (P.L. 111-220), which finally ended the 100:1 ratio that had resulted in unconscionable racial disparities in the average length of sentences for comparable offenses. Indeed, the 100:1 regime was so draconian that it typically resulted in African Americans serving as much time in prison for non-violent drug offenses as whites did for violent offenses. The "Fair Sentencing Act" incorporated all of the key components of my "Drug Sentencing Reform and Cocaine Kingpin Trafficking Act" and is a watershed moment in the fight for fair and equitable drug sentencing policy.

But since the provisions of the "Fair Sentencing Act" are not retroactive there is still much work left to be done. The federal prison system still houses thousands of inmates sentenced under the old, unfair 100-1 ratio regime. We need to keep working for reform until all federal inmates sentenced under the old regime are afforded the opportunity to have their sentences reconsidered under the provisions of current law.

Happily, Clarence Aaron will not be one of those who still must wait. For after serving more than 20 years in federal prison, Clarence Aaron will be freed on April 17 because he was one of eight persons granted executive clemency, or a reduction in sentence, by President Obama on December 19, 2013. The power to grant a reduction in sentence is among the powers vested exclusively to, and committed to the sound discretion of, the President by the Pardon Clause (Art. II, §2, Clause 1) of the U.S. Constitution.

President Obama's grant of executive clemency to Clarence Aaron and seven others was an act of simple justice and a welcome development. So too is the recent announcement by the Department of Justice that it intends to be more aggressive in identifying and recommending to the President additional candidates for executive clemency consideration. This is not amnesty. These inmates have been incarcerated for many years.

Applications for executive clemency that are most likely to receive favorable consideration are those submitted by non-violent, low-level drug offenders who were not leaders of, or had any significant ties to, large-scale organizations, gangs, or cartels. Petitions from first-time offenders and offenders without an extensive criminal history also may be good candidates for favorable consideration.

In light of these recent positive developments, I am optimistic that Congress can build upon the progress made to date by passing the "Federal Prison Bureau Nonviolent Offender Relief Act," (H.R. 62) that I have introduced. This legislation directs the Bureau of Prisons to release prisoners who have served one half or more of their terms of imprisonment if they have (1) attained age 45; (2) never been convicted of a crime of violence; and (3) not engaged in any violation involving violent conduct of institutional disciplinary regulations.

The benefits of such a law are two-fold. First, it will give non-violent offenders who have paid their debt a second chance to redeem their lives while they are still young enough to contribute to society. Second, it will go a long way toward reducing the \$6.5 billion that the Nation spends annually on prisoner incarceration.

Another area in which reform advocates and legal professionals can make an immediate difference is in identifying and assisting potential candidates for executive clemency and in assembling commutation petitions which effectively present the information needed by the Department of Justice and the President.

It is past time for us to get not only our fiscal house in order but the penal one as well. Increased exercise of the executive clemency power by the President is a step in the right direction.

DISA BATTAGLIA

HON. ED PERLMUTTER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, March 10, 2014

Mr. PERLMUTTER. Mr. Speaker, I rise today to recognize and applaud Disa Battaglia for receiving the Arvada Wheat Ridge Service Ambassadors for Youth award. Disa Battaglia is a 12th grader at Jefferson High School and received this award because her determination and hard work have allowed her to overcome adversities.

The dedication demonstrated by Disa Battaglia is exemplary of the type of achievement that can be attained with hard work and perseverance. It is essential students at all levels strive to make the most of their education and develop a work ethic which will guide them for the rest of their lives.

I extend my deepest congratulations to Disa Battaglia for winning the Arvada Wheat Ridge Service Ambassadors for Youth award. I have no doubt she will exhibit the same dedication and character in all of her future accomplishments.

PERSONAL EXPLANATION

HON. LYNN A. WESTMORELAND

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, March 10, 2014

Mr. WESTMORELAND. Mr. Speaker, on rollcall No. 67 I had to depart DC to fly to Georgia in order to attend the visitation of a funeral for a longtime friend. Had I been present, I would have voted "yea."